

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

MARCUS RASHAWN SMITH, #183170,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION NO. 2:09-CV-1130-SRW
)	[WO]
)	
LAURA K. GRESHAM, et al.,)	
)	
Defendants.)	

MEMORANDUM OPINION

This cause of action is pending before the court on a 42 U.S.C. § 1983 complaint filed by Marcus Rashawn Smith [“Smith”], an indigent inmate, on December 14, 2009. The complaint is pending before the court on Smith’s challenges to actions taken against him during his prior confinement in the Lowndes County Jail.

Pursuant to the orders of this court, the defendants filed a written report supported by relevant evidentiary materials in which they addressed the claims for relief presented by Smith. The report and evidentiary materials refute the conclusory allegations presented in the instant cause of action. The court thereafter issued an order directing Smith to file a response to the defendants’ written report. *Order of March 9, 2010 - Court Doc. No. 16*. The order advised Smith that his failure to respond to the defendants’ written report would be treated by the court “**as an abandonment of the claims set forth in the complaint and as a failure to prosecute this action.**” *Id.* at 2 (emphasis in original). Additionally, the order “**specifically cautioned [the plaintiff] that [his failure] to file a response in**

compliance with the directives of this order” would result in the dismissal of this civil action. *Id.* The time allotted Smith for filing a response in compliance with this order expired on March 29, 2010. As of the present date, Smith has failed to file a requisite response in opposition to the defendants’ written report. In light of the foregoing, the court concludes that this case should be dismissed.

The court has reviewed the file in this case to determine whether a less drastic measure than dismissal is appropriate. After such review, it is clear that dismissal of this case without prejudice is the proper course of action. Smith is an indigent inmate. Thus, the imposition of monetary or other punitive sanctions against him would be ineffectual. Additionally, Smith has exhibited a lack of deference for this court and its authority as he has failed to comply with the directives of the orders entered in this case. It is therefore apparent that any additional effort by this court to secure Smith’s compliance would be unavailing. Consequently, the court concludes that the plaintiff’s abandonment of his claims, his failure to comply with the orders of this court and his failure to properly continue prosecution of this cause of action warrant dismissal of this case.

A separate order will accompany this memorandum opinion.

Done, this 5th day of May, 2010.

/s/ Susan Russ Walker
SUSAN RUSS WALKER
CHIEF UNITED STATES MAGISTRATE JUDGE